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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,318

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EXAMINER

PATTERSON, MARC A

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

03/05/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/803,318	Applicant(s) DAVIS ET AL.	
	Examiner MARC A. PATTERSON	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/12/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 51 – 52 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should be multiple dependent only in the alternative. See MPEP § 608.01(n).

NEW REJECTIONS

Claim Rejections – 35 USC § 103(a)

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 23 and 51 – 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey et al (U.S. Patent No. 6,368,545 B1) in view of Agouri et al (U.S. Patent No. 4,126,648).

With regard to Claim 23, Bailey et al disclose a multilayer film two skin layers and a core layer comprising HDPE (column 3, lines 20 - 28), the skin layers comprising polymers selected from a group that includes LLDPE made from metallocene catalyst (column 3, lines 50 - 61); Bailey et al therefore disclose an A/B/A structure. Lind et al fail to disclose a blend comprising 60 - 90 wt.% low density polyethylene and 40 - 10 wt.% high density polyethylene.

Agouri et al teach a film having 60 - 90 wt.% low density polyethylene and 40 - 10 wt.% high density polyethylene (column 2, lines 16 - 20) for the purpose of obtaining a film having superior properties to a film comprising high density polyethylene alone (column 5, lines 60 –

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64). One of ordinary skill in the art would therefore have recognized the advantage of providing for the thickness of Agouri et al in Bailey et al, which comprises a film, depending on the desired properties of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a blend comprising 60 - 90 wt.% low density polyethylene and 40 - 10 wt.% high density polyethylene in Bailey et al in order to obtain a film having superior properties to a film comprising high density polyethylene alone as taught by Agouri et al.

4. Claims 24 - 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey et al (U.S. Patent No. 6,368,545 B1) in view of Agouri et al (U.S. Patent No. 4,126,648) and further in view of Lind et al (U.S. Patent Publication No. 2001/0003624).

Bailey et al and Agouri et al disclose a polyethylene film comprising skin layers as discussed above. With regard to Claim 24, Bailey et al and Agouri et al fail to disclose a skin layer having a blend of LLDPE and an ethylene - alpha olefin copolymer and having a density of 0.940 g/cm³.

Lind et al teach a film having an ethylene - alpha olefin copolymer having a density of 0.940 g/cm³ (paragraph 0020) for the purpose of obtaining a film for the wrapping of a group of items (paragraph 0004). One of ordinary skill in the art would therefore have recognized the advantage of providing for the film of Bailey et al and Agouri et al, which comprises a film, depending on the desired use of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for an ethylene - alpha olefin copolymer having a density of 0.940 g/cm³ in Bailey et al and Agouri et al in order to obtain a film for the wrapping of a group of items as taught by Lind et al.

With regard to Claims 25 - 26, 31 - 33, 37 - 39, 43 and 47, the metallocene polyethylene disclosed by Bailey et al is linear low density polyethylene, as stated above.

With regard to Claims 27 and 40 - 41, Lind et al disclose HDPE having a density of 0.960 to 0.965 g/cm³ (paragraph 0020).

With regard to Claims 28, 38 and 42, Lind et al disclose HDPE having a density of 0.925 to 0.935 g/cm³ (paragraph 0020).

With regard to Claims 29 - 30 and 44 - 46, the film disclosed by Agouri et al has a thickness of less than 50 microns (column 1, lines 10 - 11), and therefore has a 1% secant modulus MD of at least 500 mPa and 1% secant modulus TD of at least 600 mPa and a difference in Gloss 20 and 60 of 2% or less.

With regard to Claims 34 and 48, the film disclosed by Lind et al is coextruded (paragraph 0056) and heat - shrinkable (paragraph 0064).

With regard to Claims 35 and 49 - 50, Lind et al disclose a group of items wrapped by the film (pieces of meat; paragraph 0004); Lind et al therefore disclose a collation shrink wrapped structure.

With regard to Claim 36, Lind discloses the interchangeable use of the film as a packaging film or as a packaging bag (paragraph 0003) and the film disclosed by Lind is heat shrinkable (paragraph 0002); Lind therefore discloses a process of making a packaged structure

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comprising the wrapping of a package comprising the bag with the film and heating the wrapped package to shrink the film and applying a holding force.

ANSWERS TO APPLICANT'S ARGUMENTS

5. Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claim 23 as being unpatentable over Bailey et al (U.S. Patent No. 6,368,545 B1) in view of Agouri et al (U.S. Patent No. 4,126,648), and 35 U.S.C. 103(a) rejection of Claims 24 – 50 as being unpatentable over Bailey et al (U.S. Patent No. 6,368,545 B1) in view of Agouri et al (U.S. Patent No. 4,126,648) and further in view of Lind et al (U.S. Patent Publication No. 2001/0003624), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 9 of the remarks dated February 12, 2009, that the satiny appearance of Agouri et al would be inconsistent with the goal of Bailey et al, which is high clarity.

However, Bailey et al does not exclude a satiny appearance, because it is not directed to films having perfect clarity; the films have a clarity that is greater than they would be if not made by the disclosed method (column 3, lines 42 – 50).

Applicant also argues on page 9 that shrink films are not disclosed by Bailey et al.

However, a shrink film is taught by Bailey et al.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497.

The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Marc A Patterson/
Primary Examiner, Art Unit 1794